

1 The Honorable Robert S. Lasnik
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 VOSK INTERNATIONAL CO.,) No. 11-1488 RSL
10 Plaintiff,)
11 vs.) DECLARATION OF MICHAEL ATKINS
12 ZAO GRUPPA PREDPRIYATIJ OST and)
13 ZAO OST AQUA,) NOTE ON MOTION CALENDAR:
14 Defendants.) October 11, 2011
15 _____)

16 Michael G. Atkins deposes and states:

17 1. I am attorney of record for plaintiff Vosk International Co. I make this
declaration based on personal knowledge about which I am competent to testify.

18 2. Vosk is engaged in the business of marketing, distributing, offering for sale, and
selling beverages. Its principal place of business is located in Bellevue, Washington.

19 3. On information and belief, Defendants Zao Gruppa Predpriyatij Ost and Zao Ost
20 Aqua ("Defendants") also are engaged in the business of marketing, distributing, offering for
21 sale, and selling beverages. On information and belief, their principal place of business is
22 located in Noginsk, Moskovskaya oblast, Russia.

23 4. In September 2004, Vosk applied to register three trademarks with the U.S. Patent
24 and Trademark Office: KCTPA-CNTP EXTRA-CIDER and Design (Serial No. 78477812) in
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26 DECLARATION OF MICHAEL ATKINS -- 1

ATKINS IP

93 South Jackson Street #18483
Seattle, WA 98104-2818
(206) 628-0983/Fax: (206) 299-3701

No. 11-1488 RSL

1 International Class 32 in connection with “non-alcoholic beverages, namely sparkling water”;
2 TAPXYH ESTRAGON and Design (Serial No. 78477780) in International Class 32 in
3 connection with “non-alcoholic beverages, namely flavored water”; and DIOWEC DUSHESSE
4 and Design (Serial No. 78485896) in connection with “non-alcoholic beverages, namely flavored
5 sparkling water.”

6 5. In September, October, and November 2005, the PTO approved Vosk’s
7 applications to register its trademarks and published them for opposition.

8 6. In January and February 2006, Defendants opposed Vosk’s applications
9 (Opposition Nos. 91168423, 91169098, and 91169446), alleging prior use of almost identical
10 trademarks. Defendants were represented in the proceeding by a number of U.S.-based lawyers.
11 Maria Eliseeva of the Lexington, Massachusetts, law firm of Houston Eliseeva, LLP, argued the
12 case before the TTAB on Defendants’ behalf. Defendants were also represented at the hearing
13 by Washington, D.C., attorney Carla Calcagno of Calcagno Law PLLC, whose whereabouts are
14 currently unknown to Vosk. A true and correct printout of an excerpt of the U.S. Trademark
15 Trial and Appeal Board’s docket for the consolidated opposition proceedings I obtained from the
16 TTAB on October 6, 2011, is attached hereto as Exhibit A.

17 7. The TTAB consolidated Defendants’ oppositions for trial. On August 9, 2011, it
18 rendered a decision sustaining the oppositions.

19 8. On September 9, 2011, Vosk brought the instant action appealing the TTAB’s
20 decision and seeking additional relief against Defendants pursuant to 15 U.S.C. § 1071(b)(1).

21 9. As Exhibit A indicates, the TTAB docket shows that Ms. Eliseeva and Houston
22 Eliseeva, LLP, remain Defendants’ attorneys of record pending resolution of the instant appeal.

23 10. Though Vosk brings this motion *ex parte*, it notified Defendants – both directly
24 and through their U.S. attorneys – that it filed this motion, as Vosk’s Certificates of Service
25 indicate.

26 DECLARATION OF MICHAEL ATKINS -- 2

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1 11. A true and correct copy of a page that I obtained from the U.S. State
2 Department's website (http://travel.state.gov/law/judicial/judicial_3831.html) on October 6,
3 2011, is attached hereto as Exhibit B.

4 12. I swear under penalty of perjury under the laws of the State of Washington and
5 the United States that the foregoing is true and correct.

6 DATED this 10th day of October, 2011.

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9 Michael G. Atkins
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DECLARATION OF MICHAEL ATKINS -- 3

No. 11-1488 RSL

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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I hereby certify that I served a true and correct copy of the document as follows:

<p>5 Zao Ost-Aqua 6 Zao Gruppa Predpriyatij Ost 7 Chernogolovka, ul. 8 Trety proyezd d. 16 Noginsky Rayon 9 Moskovskaya obl., 142 432 Russia</p> <p>10 Defendants</p>	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Express Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email <input type="checkbox"/> ECF
<p>10 Maria Eliseeva 11 Houston Eliseeva, LLP 12 420 Bedford St., Suite 155 Lexington, MA 02420 13 Attorneys for Defendants in TTAB Proceeding</p>	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Express Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email <input type="checkbox"/> ECF

14 Dated: October 11, 2011

s/Michael G. Atkins

Michael G. Atkins
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Atkins Intellectual Property, PLLC
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21 DECLARATION OF MICHAEL ATKINS -- 4

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